

1 HONORABLE RONALD B. LEIGHTON
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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 SUSAN ROACH,

12 Plaintiff,

v.

13 MEYER BROTHERS ROOFING &
14 SHEET METAL INC,

15 Defendant.

CASE NO. C14-5494 RBL

ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS

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17 THIS MATTER is before the Court on Defendant Meyer Brothers' motion to dismiss
18 Susan Roach's claims [Dkt. #7]. Roach is suing Meyer Brothers, her former employer, under 42
19 U.S.C. § 1983 for wrongful termination. Meyer Brothers contends that it cannot be held liable
20 under § 1983.
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22 A plaintiff cannot assert a 42 U.S.C. §1983 claim for violation of his or her constitutional
23 rights against any defendant who is not a state actor. *See West v. Atkins*, 487 U.S. 42, 48 (1988).
24 This determination is made using a two-part test: (1) "the deprivation must . . . be caused by the
25 exercise of some right or a privilege created by the government or a rule of conduct imposed by
26 the government;" and (2) "the party charged with the deprivation must be a person who may
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1 fairly be said to be a *governmental actor.*" *Sutton v. Providence St. Joseph Medical Center*, 192
2 F.3d 826, 835 (9th Cir. 1999).

3 A private entity is not a governmental actor unless it "willfully participates in joint action
4 with state officials to deprive others of constitutional rights." *Taylor v. List*, 880 F.2d 1040, 1048
5 (9th Cir.1989). Ms. Roach has failed to plead any facts that indicate Meyers Brothers is, or was
6 acting as, a governmental actor. *See Lee v. Katz*, 276 F.3d 550, 553-54 (9th Cir.2002) (finding
7 that it is plaintiff's burden to establish the defendants were acting under color of state law when
8 depriving a plaintiff of a federal right). Accordingly, the defendant's motion to dismiss is
9 GRANTED, and Ms. Roach's 42 U.S.C. §1983 claim is dismissed WITH PREJUDICE. This
10 dismissal, however, should not be construed as foreclosing the possibility or validity of other
11 federal or state law claims Ms. Roach may have.
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13 IT IS SO ORDERED.
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16 Dated this 22nd day of September, 2014.
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20 RONALD B. LEIGHTON
21 UNITED STATES DISTRICT JUDGE
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